

A Bill, fortunately not passed, and which we hope will be reconsidered, raises the number of judges in Appeal in the Province of Quebec to six, and peremptorily fixes the quorum at five, while it does not allow the judges to fix their own time of sitting. The effect of this is to give room for two majorities in the Court, thus keeping the jurisprudence on points of difficulty in almost endless uncertainty, and it also exposes the Court to the inconvenience of being unable to sit if one judge is ill or absent for any cause.

INJURIES RESULTING IN DEATH.

An interesting decision on the subject of life insurance, re-affirming an old principle, was pronounced recently by the Supreme Court of the United States, in the case of *The Mobile Life Insurance Co. v. Brame*. The action was brought by the Company to recover the sum of \$7,000, under the following circumstances. It had insured the life of one McLemore, a citizen of Louisiana, for various sums, amounting to \$7,000 in favor of John P. Kennedy, and while the policies were in force, the defendant, Brame, wilfully shot McLemore, inflicting upon him a mortal wound, from the effects of which he died two days afterwards. The Company being compelled to pay the amount of the policies, sought to recover the same from Brame, through whose "illegal and tortious" act the loss was alleged to have been incurred. At the Court below the action was dismissed, and this decision has been affirmed by the Supreme Court, the ruling being that "by the common law no civil action lies for an injury which results in death; and the death of a human being, though clearly involving pecuniary loss, is not ground for an action of damages." It was intimated that the Act, 9 & 10 Victoria (1846), giving an action in certain cases to the representatives of the deceased, which has been incorporated into the Statutes of many of the States, did not include a claimant such as the one in this action. Mr. Justice Hunt, in delivering the opinion of the Court, remarked that the authorities are so numerous and so uniform to the proposition, that by the common law no civil action lies for an injury which results in death—that it was impossible to regard it as open to question. He quoted Hilliard on Torts,

where the rule is laid down as follows: "Upon a similar ground it has been held that at common law the death of a human being, though clearly involving pecuniary loss, is not the ground of an action of damages." Numerous authorities are referred to, and the Judge quoted several other decisions in the same sense. In the case of *Green v. The Hudson R. R. Co.*, 2 Keyes, 300, the plaintiff alleged that his wife was a passenger on the defendants' road, and by the gross carelessness and unskillfulness of the defendants, a collision occurred which resulted in the death of his wife," whereby he has lost and been deprived of all the comfort, benefit and assistance of his said wife in his domestic affairs, which he might and otherwise would have had, to his damage," &c. The defendants demurred to this on the ground that the allegations constituted no ground of action, and the demurrer was sustained. Having referred to other decisions to the same effect, the Judge continued: "The relation between the insurance company and McLemore, the deceased, was created by contract between them. But Brame was no party to the contract. The injury inflicted by him was upon McLemore, against his personal rights; that it happened to injure the plaintiff was an incidental, a remote and indirect result, not necessarily or legitimately resulting from the act of killing."

The Legislature has stepped in to remedy the hardship that might arise from a rigid adherence to the old rule of law, but the Court held that the statutory provision did not apply. "By the common law," Judge Hunt observed, "actions for injuries to the person abate by death, and cannot be revived or maintained by the executor or by the heir. By the Act of Parliament of Aug. 21, 1846 (9 & 10 Vict.), an action in certain cases is given to the representatives of the deceased. This principle, in various forms and with various limitations, has been incorporated into the Statutes of many of our States, and among others, into that of Louisiana. It is there given in favor of the minor children and widow of the deceased, and in default of these relatives, in favor of the surviving father and mother. The case of a creditor, much less a remote claimant like the plaintiff, is not within the Statute."

The point here decided seems to have arisen more frequently than might be supposed, and